

# **EXHIBIT "A"**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**AUTO-OWNERS INSURANCE )  
COMPANY, a mutual insurance )  
company incorporated in the )  
State of Michigan, )**

**Plaintiff,**

**V.**

**CIVIL ACTION NO.: 2:06-cv-123-MHT**

**JACK J. RUSCH, an individual; and )  
BARBOUR COUNTY HISTORICAL )  
PRESERVATION AUTHORITY, a )  
corporation; )**

**Defendants.**

**AFFIDAVIT OF JOEL H. PEARSON IN SUPPORT OF  
REQUEST FOR CLERK'S ENTRY OF DEFAULT**

**STATE OF ALABAMA** )

**COUNTY OF MONTGOMERY** )

**BEFORE ME**, a Notary Public in and for said County and State, personally appeared **JOEL H. PEARSON**, who is known to me, and who, after first being duly sworn, did state as follows:

1. My name is Joel H. Pearson and I am over the age of 21 years and a resident of the State of Alabama. This Affidavit is made in support of the request of Plaintiff, Auto-Owners Insurance Company (Auto-Owners), for the Clerk to enter the default of Defendant, Jack J. Rusch.

2. I am an attorney for Plaintiff, Auto-Owners Insurance Company (Auto-Owners), and I have personal knowledge of the facts set forth in this affidavit.

3. That Defendant, Jack J. Rusch, was personally served with the Summons and Complaint for Declaratory Relief and Judgment on April 12, 2006. A true, accurate and genuine copy of the return of service is attached hereto as Exhibit "1".

4. That more than twenty (20) days have passed since the date on which Defendant, Jack J. Rusch, was served with the Summons and Complaint for Declaratory Relief and Judgment and Defendant, Jack J. Rusch, has failed to answer, plead or otherwise defend as provided by the *Federal Rules of Civil Procedure*. The undersigned counsel for Plaintiff has not received an answer, motion, or any other pleading or defense from Defendant, Jack J. Rusch.

5. Defendant, Jack J. Rusch is neither an infant nor an incompetent nor is he engaged in military service.

6. That this affidavit is executed by affiant herein in accordance with Rule 55(a) of the *Federal Rules of Civil Procedure* for the purpose of enabling the Plaintiff to obtain the clerk's entry of the default of Defendant Jack J. Rusch for failure to answer, plead or otherwise defend as to the Plaintiff's Complaint for Declaratory Relief and Judgment.

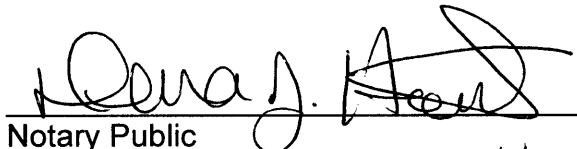
7. I have read the above and foregoing affidavit of 3 (three) pages, including the signature page, and I certify that the facts contained therein are true and correct based on my personal knowledge of the facts of this case, as well as my personal knowledge of the procedural history of this litigation.

  
\_\_\_\_\_  
JOEL H. PEARSON

STATE OF ALABAMA )

COUNTY OF MONTGOMERY )

Sworn to and subscribed to before me this 9<sup>th</sup> day of May, 2006.

  
\_\_\_\_\_  
Notary Public  
My Commission Expires: 11/24/2007

(SEAL)

# **EXHIBIT "1"**

# United States District Court

MIDDLE

DISTRICT OF

ALABAMA

AUTO-OWNERS INSURANCE COMPANY,  
a mutual insurance company incorporated in  
the State of Michigan,

Plaintiff,

v.

JACK J. RUSCH, an individual; and BARBOUR  
COUNTY HISTORICAL PRESERVATION  
AUTHORITY, a corporation,

Defendants.

ALIAS

SUMMONS IN A CIVIL CASE

CASE NUMBER: 2:06-CV-123-MHT

TO: (Name and address of defendant)

Mr. Jack J. Rusch  
462 County Road 75  
Eufaula, AL 36027-6409

**YOU ARE HEREBY SUMMONED** and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Roger S. Morrow  
Joel H. Pearson  
MORROW, ROMINE & PEARSON, P.C.  
P.O. Box 4804  
Montgomery, AL 36103-4804

an answer to the complaint which is herewith served upon you, within Twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

Debra F. Hackett

CLERK

DATE

April 11, 2006

(BY) DEPUTY CLERK

RETURN OF SERVICE

Service of the Summons and Complaint was made by me<sup>1</sup>

DATE

4-12-06

NAME OF SERVER (PRINT)

Dennis Foster

TITLE

Private Law

Check one box below to indicate appropriate method of service



Served personally upon the defendant. Place where served:

Canada, ALA. 462 County Road 75



Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left:



Returned unexecuted:



Other (specify):

STATEMENT OF SERVICE FEES

TRAVEL

SERVICES

TOTAL

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on

Date

4-12-06

Signature of Server

Dennis Foster

Address of Server

182 Pine Wood Circle

RETURNED AND FILED

APR 18 2006

CLERK  
U. S. DISTRICT COURT  
MIDDLE DIST. OF ALA.

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.